

UNITED STATES DISTRICT COURT
IN THE WESTERN DISTRICT OF MICHIGAN

ELOUISE MOORE,

Plaintiff,

Case No. 10-cv-1072

Hon. Gordon J. Quist

HSBC MORTGAGE SERVICES,

Defendant.

Elouise Moore
pro se Plaintiff
7611 Thrasher Lane
Kalamazoo, Michigan 49009

DICKINSON WRIGHT PLLC
Francis R. Ortiz (P31911)
Jennifer L. Newby (P68891)
Attorneys for Defendant
500 Woodward Avenue, Suite 4000
Detroit, Michigan 48226
(313) 223-3500
fortiz@dickinsonwright.com
jnewby@dickinsonwright.com

DEFENDANT HSBC MORTGAGE SERVICES' ANSWER
AND AFFIRMATIVE DEFENSES

ANSWER

Defendant HSBC Mortgage Services ("HSBC"), by and through its counsel Dickinson Wright PLLC, hereby states as follows for its Answer to Plaintiff's Complaint, because Plaintiff failed to comply with Fed.R.Civ.P. 10(b) and number her paragraphs, HSBC's response corresponds to the numbered lines appearing in Plaintiff's Complaint:

PARTIES

Lines 11-13 HSBC does not have sufficient information to admit or deny the allegations in this paragraph as they relate to Plaintiff, and leaves Plaintiff to her proofs. Admitted that HSBC maintains the address cited.

STATEMENT OF CAUSE

Lines 15-16 Admitted that Plaintiff entered into a mortgage for the property identified.

Lines 17-18 Denied.¹

Lines 19-20 Denied.

Lines 21-22 Denied.

Line 23 Denied.

Lines 24-25 Denied.

Lines 26-29 Denied.

IN BRIEF

(Non-factual Statement of Posture and Position)

Lines 32-46 These statements are not allegations but are instead Plaintiff's musings regarding this action. As such, no response from HSBC is required. To the extent a response is required, HSBC denies any allegations of wrong-doing.

CAREFULLY CRAFTED CRIMINAL CONNIVANCE

(General State of the Real Estate Industry)

Lines 49-152 These statements are not allegations but are instead Plaintiff's musings regarding her perceived state of the real estate industry. As such, no response from HSBC is required. To the extent a response is required, HSBC denies any allegations of wrong-doing.

PETITIONER WILL PROVE THE FOLLOWING

Lines 155-156 Denied to the extent the allegations relate to HSBC.

Lines 157-158 Denied to the extent the allegations relate to HSBC.

Lines 159-161 Denied to the extent the allegations relate to HSBC.

Lines 162-172 Denied to the extent the allegations relate to HSBC.

Lines 173-175 Denied to the extent the allegations relate to HSBC.

¹ Plaintiff's Complaint refers to "Defendants" throughout, as HSBC is the only named Defendant, all of HSBC's responses are as to and on behalf of HSBC only.

Lines 176-177 Denied to the extent the allegations relate to HSBC.

Lines 178-180 Denied to the extent the allegations relate to HSBC.

Lines 181-182 Denied to the extent the allegations relate to HSBC.

Lines 183-187 Denied to the extent the allegations relate to HSBC.

Lines 188-189 Denied to the extent the allegations relate to HSBC.

Lines 190-192 Denied to the extent the allegations relate to HSBC.

PETITIONER SEEKS REMEDY

Lines 194-199 HSBC denies that Plaintiff is entitled to damages; declaratory relief; injunctive relief; or any other remedy.

PETITIONER HAS BEEN HARMED

Line 201 Denied to the extent the allegations relate to HSBC.

Lines 202-203 Denied.

Lines 204-205 Denied.

STATEMENT OF CLAIM

DEFENDANTS LACK STANDING

No Evidence of Contractual Obligation

Lines 207-214 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 215-223 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

No Proper Evidence of Agency

Lines 224-232 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Special Purpose Vehicle

Lines 233-243 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Criminal Conspiracy and Theft

Lines 244-250 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Agent Practiced Up-Selling

Lines 251-262 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Fraudulent Inducement

Lines 263-265 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Extra Profit on Sale of Predatory Loan Product

Lines 266-269 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Extra Commission for Late Payments

Lines 270-276 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Extra Income for Handling Foreclosure

Lines 277-280 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Credit Default Swap Gambling

Lines 281-284 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

LENDER ATTEMPTING TO FRAUDULENTLY COLLECT ON VOID LIEN

Lines 285-289 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 290-292 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 293-295 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 296-298 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 299-301 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

LENDER PROFIT BY CREDIT DEFAULT SWAP DERIVATIVES

Lines 302-308 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

LENDER CHARGED FALSE FEES

Lines 309-312 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 313-314 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 315-324 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 325-331 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

RESPA PENALTY

Lines 332-337 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 338-342 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 343-347 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 348-351 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 352-353 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 354-355 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

LENDER CONSPIRED WITH APPRAISER

Lines 356-361 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

LENDER CONSPIRED WITH TRUSTEE

Lines 362-365 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 366-370 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

DECEPTIVE ADVERTISING AND OTHER UNFAIR BUSINESS PRACTICES

Lines 371-377 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

EQUITABLE TOLLING FOR TILA AND RESPA

Lines 378-380 HSBC denies that equitable tolling applies in this case.

Lines 381-390 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 391-405 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 406-411 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

BUSINESS PRACTICES CONCERNING DISREGARDING OF UNDERWRITING STANDARDS

Lines 412-420 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 421-428 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 429-435 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 436-440 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 441-445 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 446-450 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 451-454 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 455-458 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 459-468 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 469-475 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 476-478 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 479-483 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 484-488 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 489-491 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

UNJUST ENRICHMENT

Lines 492-501 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 502-504 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC. In further answer, HSBC denies that Plaintiffs are entitled to any relief from HSBC.

CLAIM TO QUIET TITLE

Lines 505-509 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 510-520 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

SUFFICIENCY OF PLEADING

Lines 521-527 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

Lines 528-536 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they allege any wrong doing by HSBC.

CAUSES OF ACTION

BREACH OF FIDUCIARY DUTY

Lines 538-541 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 542-545 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 546-547 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 548-549 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

CAUSES OF ACTION – NEGLIGENCE / NEGLIGENCE PER SE

Lines 550-553 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 554-558 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 559-562 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 563-566 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 567-568 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

AGENT: COMMON LAW FRAUD

Lines 569-572 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 573-575 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 576-580 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 581-583 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 584-590 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

PETITIONER PROPERLY AVERRED A CLAIM FOR BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

Lines 591-598 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 599-603 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 604-612 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 613-627 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

CAUSE OF ACTION VIOLATION OF TRUTH IN LENDING ACT 15 U.S.C. § 1601 ET SEQ

Lines 628-632 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 633-635 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Lines 636-640 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 641-643 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 644-645 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 646-647 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC.

Lines 648-649 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC. In further answer, HSBC denies that Plaintiffs are entitled to any relief from HSBC.

Lines 650-652 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC. In further answer, HSBC denies that Plaintiffs are entitled to any relief from HSBC.

Lines 653-655 To the extent this paragraph states allegations requiring a response, the allegations are denied to the extent they relate to HSBC. In further answer, HSBC denies that Plaintiffs are entitled to any relief from HSBC.

WHEREFORE, Defendant HSBC respectfully requests that this Court dismiss Plaintiff's Complaint in its entirety, deny the relief sought by Plaintiff, and enter a judgment in favor of HSBC and against Plaintiff, together with costs and attorney's fees.

Respectfully submitted,

DICKINSON WRIGHT PLLC

By: /s/ Francis R. Ortiz
Francis R. Ortiz (P31911)
Jennifer L. Newby (P68891)
Attorneys for HSBC Mortgage Services
500 Woodward Ave., Suite 4000
Detroit, Michigan 48226
(313) 223-3500
fortiz@dickinsonwright.com
jnewby@dickinsonwright.com

Dated: November 30, 2010

AFFIRMATIVE DEFENSES

Defendant HSBC Mortgage Services ("HSBC"), by and through its attorneys Dickinson Wright PLLC, hereby states as follows for its Affirmative Defenses to Plaintiff's Complaint:

1. Plaintiff's claims are barred because they fail to state a claim upon which relief can be granted.
2. Plaintiff's claims are barred in whole or in part by the applicable statute of limitations and/or the doctrine of laches.
3. To the extent that Plaintiff has suffered any damages, the same were the result of her own actions or the actions of others not under the control of HSBC.
4. Plaintiff failed to join a necessary party(s).
5. Plaintiff failed to plead fraud with the required particularity.
6. Plaintiff's claims are subject to an agreement to arbitrate.
7. HSBC reserves the right to amend its Affirmative Defenses as this case proceeds.

Respectfully submitted,

DICKINSON WRIGHT PLLC

By: /s/ Francis R. Ortiz
Francis R. Ortiz (P31911)
Jennifer L. Newby (P68891)
Attorneys for HSBC Mortgage Services
500 Woodward Ave., Suite 4000
Detroit, Michigan 48226
(313) 223-3500
fortiz@dickinsonwright.com
jnewby@dickinsonwright.com

Dated: November 30, 2010

CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2010, I electronically filed the foregoing paper with the Clerk of the Court with the Western District of Michigan using the ECF system; which will send notification to all counsel of record by CM/ECF. I also mailed by U.S. Postal Service the foregoing to the following non-ECF participant(s):

Elouise Moore
7611 Thrasher Lane
Kalamazoo, Michigan 49009

/s/ Francis R. Ortiz
DICKINSON WRIGHT PLLC
500 Woodward Avenue, Suite 4000
Detroit, Michigan 48226
(313) 223-3500
fortiz@dickinsonwright.com

DETROIT 27528-212 1184221